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**5517-5577 W Oakland Park Boulevard
 Variance Request
 June 13, 2024**

Airport Commerce, LLC ("Petitioner") is the owner of the +/- 4.81 acre parcel located at 5517-5577 W Oakland Park Boulevard (folio 494123090010) ("Property"), which is generally located on the northwest corner of W Oakland Park Boulevard and Rock Island Road, in the City of Lauderdale ("City"). The Property has a zoning designation of CG, Commercial General, and a land use designation of Commercial. Currently existing on the Property is the Shoppes of Inverrary ("Shoppes"), which is comprised of multiple commercial uses such as hair salons, discount stores, and a Subway drive-through restaurant. Petitioner is seeking to relocate an existing Wendy's that is presently located at 5900 W Oakland Park Boulevard to a vacant outparcel portion of the Property. Section 5.32.2(E) of the City's Land Development Regulations ("Code") prohibits locating fast food and high turnover with drive-through restaurants within a minimum of one thousand (1,000) feet from another freestanding fast food drive-through restaurant. Should the proposed Wendy's be developed on the Shoppes' outparcel, the Wendy's will be within one thousand (1,000) feet of three (3) fast food and high turnover with drive-through restaurants: Subway, McDonald's, and Checkers. Therefore, Petitioner is respectfully requesting variance approval to allow four fast food and high turnover with drive-through restaurants within one-thousand (1,000) feet of each other.

As the local area grows and consumer preferences shift, strategic decisions regarding the placement of businesses become essential. The relocation of the Wendy's to the Shoppes, a bustling shopping center, is the ideal location for economic viability.. In an increasingly competitive market, the relocation not only accommodates the shifting demands of the community but also presents an opportunity for enhanced visibility and accessibility.

Pursuant to Code Section 3.1.3, Petitioner must demonstrate that the requested variance will satisfy the following criteria:

- A. That there are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district. The matter of economic hardship shall not constitute a basis for the granting of a variance.**

The special circumstance that makes this intended use the most appropriate on the Property is the Property's prior approval for a similar use in the same proposed location in 2012. The vacant outparcel and the existing Subway restaurant were both approved in 2012 as two separate fast food drive through restaurants. While the Subway was constructed in 2013, the vacant outparcel's approval expired before

development could begin. In its place, a light pole was constructed instead. In 2018, the City Commission adopted the Code's fast food drive through restaurant distance restriction. The City's 2018 restriction on the proximity of drive-throughs highlights the significance of this earlier approval. Although the 2012 approval expired within six months without the drive through restaurant being built, it demonstrated that the Property was deemed suitable for this proposed use and the proposed use is a desirable development. Furthermore, the Shoppes is a centrally located shopping center situated directly west of Florida's Turnpike and adjacent to Lauderhill's City Hall. Because the Property abuts a significant state road, is positioned along a major City thoroughfare, and is easily accessible from various residential and commercial areas, the Property is an ideal location for hosting a variety of commercial uses, particularly fast food drive-through restaurants. While shopping centers are attractive locations for businesses because of the significant foot traffic they generate, they are also uniquely positioned to thrive when multiple restaurant options are available.

Additionally, this location was specifically selected for its enhanced safety for both vehicles and pedestrians. As stated above, the Wendys is currently located at 5900 W Oakland Park Boulevard and because of the current location's access through an access road, Wendy's customers are subjected to dangerous driving and walking conditions. The current Wendy's location experiences heavy vehicle traffic, sharp turns and blind spots, and a lack of pedestrian facilities. Because of this, the Petitioner is seeking a new location that will allow for safer access to and from the restaurant while continuing to operate this franchise within the City's limits. Relocating to the Shoppes will allow for controlled access and enhanced security, which include dedicated parking areas, speed control measures, and planned traffic flow patterns.

B. That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section.

The alleged hardship is not self-created by the Petitioner. While the Code states that "all fast food and high turnover with drive-through restaurants shall be located a minimum of one thousand (1,000) feet from another freestanding fast food drive-through restaurant," fast-casual dining has evolved since the Covid-19 pandemic. This Code requirement does not take into account that consumers, now more than ever, prefer restaurants with drive-through services. Many consumers have become accustomed to the distancing created by the pandemic and businesses have adapted their strategies. Businesses have more delivery, contactless pick-up, and drive-through options than seen before. While the Wendy's will be located less than

100 feet from the existing Subway drive-through and less than 400 feet from the McDonald's and Checkers drive throughs, allowing the Wendy's in close proximity to several established restaurant uses will cater to the needs and wants of the public by providing an additional dining option. The Petitioner is providing this dining option in a location that is convenient, safe, and desired by residents and visitors, as evidenced by their popularity.

C. That strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the property for which the variance is sought.

Section 5.32.2(E), which restricts fast food and high turnover with drive-through restaurants a minimum of one thousand (1,000) feet from another freestanding fast food drive-through restaurant deprives the Petitioner of reasonable use of the Property. As stated above, a shopping center is a prime location to permit multiple restaurant uses that will allow consumers a choice in their dining options. It is centrally located near a state road and major City thoroughfare and allows safer access for vehicles. Because of the access road, entry to the current site is extremely dangerous as vehicles utilize this road at high speeds while navigating visibly restricted turns. The convenience and safety that the Property's location allows residents and visitors is far superior to the current location. Allowing a destination like the Shoppes to house another drive-through restaurant is beneficial to residents for both safety and social reasons. To restrict the Shoppes' location to one drive-through restaurant is detrimental to resident satisfaction. The Property is desirable to contain such a use because there is enough room for safe pedestrian access and traffic flow, ample parking, and room for adequate stacking.

D. That the variance proposed is the minimum variance that makes possible the reasonable use of the property.

The variance proposed is the minimum variance required to make reasonable use of the Property. There is currently only one (1) fast food and high turnover with drive-through restaurant located in the Shoppes, a Subway sandwich shop. Across the street are two (2) fast food and high turnover with drive-through restaurants, a McDonald's and Checkers. Economically, the proposed location allows utilization of space and meets the demand for fast food options in the area, potentially attracting a larger customer base and increasing revenue for the Shoppes' tenants and nearby businesses. Additionally, it creates healthy competition and provides consumers with a greater variety of choices. Without the variance, this Wendy's location will look elsewhere to relocate, likely out of the City. By approving the minimum request, job opportunities will be created as well as remain within the City. The addition of one (1) additional fast food drive-through restaurant in the Shoppes will not only offer

residents dining choices but also preserve economic stability and provide a safe environment.

- E. That granting the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.**

The general purpose of the City's zoning regulations is to promote economic development, provide consumer choice, and accommodate the needs of the community. Allowing more than one drive-through restaurant within close proximity will contribute to these objectives by creating healthy competition, improving consumer options, and supporting local businesses. Additionally, as stated above, allowing this variance shows consideration of traffic flow, parking availability, and neighborhood safety. Furthermore, in today's fast-paced society, convenience and accessibility are valued by consumers. Allowing multiple drive-through options in close proximity to each other can address these new preferences without causing harm to the neighborhood or public welfare.